

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

Kevin Richardson,
a.k.a. Daniel Beard,

Petitioner

v.

Kyle Olson,

Respondent

Case No.: 2:22-cv-01887-JAD-VCF

**Order Dismissing Petition and
Closing Case**

In September, *pro se* Petitioner Kevin Richardson filed a petition for writ of habeas corpus under 28 U.S.C. § 2241 in the United States District Court for the Southern District of California.¹ That court dismissed Richardson’s petition without prejudice, instructing him to pay the \$5 filing fee before November 14, 2022, to have the case reopened.² Richardson timely paid the \$5 filing fee.³ The Southern District of California transferred the case to this court because Richardson is “an inmate in custody at Northern Nevada Correctional Center” and appears to challenge “a state court conviction which occurred in the Eighth Judicial District Court in Clark County, Nevada.”⁴

Because Richardson is in the custody of the Nevada Department of Corrections under a state-court judgment of conviction, the only proper basis for his claims is 28 U.S.C.

¹ ECF No. 1.

² ECF No. 3.

³ ECF No. 4.

⁴ ECF No. 5-1.

§ 2254.⁵ Because he filed instead a § 2241 petition, Richardson did not file his petition on the appropriate form. So on February 23, 2023, I ordered Richardson to file an amended petition on the § 2254 form on or before March 27, 2023.⁶ Because Richardson appeared to be located at High Desert State Prison but the docket reflected that he was located at Northern Nevada Correctional Center, I also ordered Richardson to update his address by filing a notice of change of address on or before March 27, 2023.⁷ I warned Richardson that a failure to timely comply by filing an amended petition and a notice of change of address would result in the dismissal of this action without prejudice and without further advance notice.⁸ To date, Richardson has not filed an amended petition, filed a notice of change of address, requested an extension of time, or taken any other action to prosecute this case.

IT IS THEREFORE ORDERED that:

1. Petitioner Kevin Richardson's Petition for Writ of Habeas Corpus [ECF No. 1] is **DISMISSED WITHOUT PREJUDICE** based on his failure to comply with the court's order [ECF No. 8] or the Local Rules of Practice;
2. Petitioner is denied a certificate of appealability because jurists of reason would not find dismissal of the petition for the reasons stated herein to be debatable or wrong; and

⁵ See *White v. Lambert*, 370 F.3d 1002, 1005–07 (9th Cir. 2004), *overruled on other grounds by* *Hayward v. Marshall*, 603 F.3d 546, 555 (9th Cir. 2010) (en banc).

⁶ ECF No. 8.

⁷ *Id.* A courtesy copy of the February 23, 2023, order was sent to Richardson at High Desert State Prison.

⁸ *Id.*

- **ADD** Nevada Attorney General Aaron D. Ford as counsel for respondents.⁹
- **INFORMALLY SERVE** the Nevada Attorney General with the petition (ECF No. 1), this order, and all other filings in this case by sending a notice of electronic filing to the Nevada Attorney General's office.
- **ENTER final judgment** accordingly and close this case.

U.S. District Judge Jennifer A. Dorsey
March 30, 2023

⁹ No response is required from Respondents other than to respond to any orders of a reviewing court.